BEFORE THE

# Federal Communications Commission

WASHINGTON, D.C.



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| In the Matter of | | |
| Redevelopment of Spectrum to Encourage Innovation in the Use of New Telecommunications Technologies | ) | ET Docket No. 92-9 |

## REPLY OF AMSC SUBSIDIARY CORPORATION

AMSC Subsidiary Corporation ("AMSC"), pursuant to Section 1.429(g) of the Commissions Rules, hereby responds to issues raised in opposition to its Petition for Reconsideration of the Third Report and Order, in the above-referenced proceeding.[1/]

AMSC explained in its Petition for Rulemaking that it plans to file in the near future a Petition for Rulemaking to allocate the 1970-1990/2160-2180 MHz bands to MSS.[2/] AMSC is concerned, however, that the procedures outlined in the Third Report and

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1/ AMSC is licensed by the Commission to construct and operate the U.S. Mobile Satellite Service ("MSS") system in the 1544-1559/1645.5-1660.5 MHz bands. See Memorandum Opinion, Order and Authorization, 4 FCC Rcd. 6041 (1989), Final Decision on Remand, 7 FCC Rcd. 266 (1992), aff'd sub nom., Aeronautical Radio, Inc. v. FCC, 983 F.2d 275 (D.C. Cir. 1993). AMSC is a principal proponent of additional MSS spectrum allocations to promote the full development of the new service. See AMSC Petition at 2-4.

2/ Subsequent to AMSC filing its Petition for Reconsideration, the Commission adopted an order reserving these bands for satellite-based personal communications services ("PCS") systems that interconnect with terrestrial PCS systems. Second Report and Order, GEN Docket No. 90-314, FCC 93-451 (rel. October 22, 1993), at paras. 198-200.

Order for relocation of existing licensees would significantly impede development of Mobile Satellite Service in those bands.

The Commission's relocation rules were developed for local market, terrestrial technologies, not for nationwide or worldwide MSS systems. An MSS system is not likely to be feasible in these bands if the MSS licensee is faced with the prospect of having to purchase a license through auction, negotiate with thousands of existing licensees, share the bands with public safety licensees, coordinate use of the bands internationally with other MSS systems, and raise approximately $500 million to construct, launch and operate the system. AMSC has therefore requested that the Commission modify its Third Report and Order to limit the application of the relocation rules to those frequencies allocated for terrestrial PCS, so that the issue of relocating users of the 1970-1990/2160-2180 MHz bands may be more fully considered in a separate proceeding.

Three parties filed comments addressing the AMSC Petition: Public Safety Microwave Committee ("PSMC"), the Utilities Telecommunications Council, and MCI Telecommunications Corporation ("MCI"). PSMC argues that the AMSC proposal will interfere with its members' operations and impose substantial financial burdens if they are required to relocate.[3/] It is premature for PSMC to reach this conclusion. AMSC is optimistic that use of the bands for MSS will not disrupt public safety services. The point of its Petition for Reconsideration, however, is that this issue is better addressed in a separate

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3/ PSMC Comments at 3.

proceeding that examines current use of the bands, proposed MSS technology and the possibilities of sharing or relocation.

MCI claims that grant of AMSC's petition would arbitrarily favor one technology (hybrid satellite-based PCS) over competing terrestrial PCS and that PCS licensees operating in the proposed MSS band could get a "free ride." MCI's claim ignores the fact that satellite-based PCS is a vastly different technology than terrestrial PCS in terms of cost, potential for sharing and spectrum availability. AMSC is not seeking a "free ride," but instead has asked the Commission to consider whether more suitable rules may be adopted for MSS that will enhance rather than destroy the opportunity for success of the service.

The only other issue raised by the commenters is that AMSC's Petition is untimely. This contention is without merit. The Commission's relocation procedures were not finalized until the Third Report and Order. It is these procedures that create the problems addressed by AMSC in its Petition for Reconsideration; therefore, this is the proper time under Commission Rules to request reconsideration. Moreover, the Commission adopted the PCS allocation only last month, thus making the Petition for Reconsideration all the more timely 4/

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4/ See, infra, note 2.

## Conclusion

AMSC has filed in a timely manner a Petition which demonstrates the harmful effects of the Commission's relocation procedures on Mobile Satellite Service. AMSC, therefore, respectfully requests that the Commission modify its order to limit the relocation rules to those frequencies allocated for terrestrial PCS and defer to a separate proceeding the establishment of relocation rules for any new frequencies allocated to MSS.

Respectfully submitted,

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Date: November 22, 1993

## CERTIFICATE OF SERVICE

I, Leslie Anne Byers, a secretary in the law firm of Fisher, Wayland, Cooper and Leader, do hereby certify that I have this 22nd day of November, 1993, mailed copies of the foregoing "**REPLY OF AMSC SUBSIDIARY CORPORATION**" by first class United States mail, postage prepaid, to the following:

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